



# Senate

General Assembly

February Session, 2016

**File No. 655**

Senate Bill No. 13

*Senate, April 18, 2016*

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***AN ACT REDUCING CERTAIN PROBATE COURT FEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-107 of the 2016 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 (a) The basic fees for all proceedings in the settlement of the estate  
5 of any deceased person, including succession and estate tax  
6 proceedings, shall be in accordance with the provisions of this section.

7 (b) In the case of a decedent who dies on or after July 1, 2016, fees  
8 shall be computed as follows:

9 (1) The basis for fees shall be (A) the greatest of (i) the gross estate  
10 for succession tax purposes, as provided in section 12-349, (ii) the  
11 inventory, including all supplements thereto, (iii) the Connecticut  
12 taxable estate, as defined in section 12-391, or (iv) the gross estate for  
13 estate tax purposes, as provided in chapters 217 and 218, except as

14 provided in subdivisions (5) and (6) of this subsection, plus (B) all  
 15 damages recovered for injuries resulting in death, minus any hospital  
 16 and medical expenses for treatment of such injuries resulting in death,  
 17 minus any hospital and medical expenses for treatment of such injuries  
 18 that are not reimbursable by medical insurance, and minus the  
 19 attorney's fees and other costs and expenses of recovering such  
 20 damages. Any portion of the basis for fees that is determined by  
 21 property passing to the surviving spouse shall be reduced by fifty per  
 22 cent. Except as provided in subdivisions (3) and (4) of this subsection,  
 23 in no case shall the minimum fee be less than twenty-five dollars.

24 (2) Except as provided in subdivisions (3) and (4) of this subsection,  
 25 fees shall be assessed in accordance with the following table:

T1	<u>Basis for Computation</u>	
T2	<u>Of Fees</u>	<u>Total Fee</u>
T3	<u>0 to \$500</u>	<u>\$25</u>
T4	<u>\$501 to \$1,000</u>	<u>\$50</u>
T5	<u>\$1,000 to \$10,000</u>	<u>\$50, plus 1% of all</u>
T6		<u>in excess of \$1,000</u>
T7	<u>\$10,000 to \$500,000</u>	<u>\$150, plus .35% of all</u>
T8		<u>in excess of \$10,000</u>
T9	<u>\$500,000 to \$2,000,000</u>	<u>\$1,865, plus .25% of all</u>
T10		<u>in excess of \$500,000</u>
T11	<u>\$2,000,000 to \$8,877,000</u>	<u>\$5,615 plus .5% of all</u>
T12		<u>in excess of \$2,000,000</u>
T13	<u>\$8,877,000 and over</u>	<u>\$40,000</u>

26 (3) Notwithstanding the provisions of subdivision (1) of this  
 27 subsection, if the basis for fees is less than ten thousand dollars and a  
 28 full estate is opened, the minimum fee shall be one hundred fifty  
 29 dollars.

30 (4) In any matter in which the Commissioner of Administrative  
 31 Services is the legal representative of the estate pursuant to section 4a-

32 16, the fee shall be the lesser of (A) the amount calculated under  
33 subdivisions (1) and (2) of this subsection, or (B) the amount collected  
34 by the Commissioner of Administrative Services after paying the  
35 expense of funeral and burial in accordance with section 17b-84.

36 (5) In the case of a deceased person who was domiciled in this state  
37 on the date of his or her death, the gross estate for estate tax purposes  
38 shall, for the purpose of determining the basis for fees pursuant to  
39 subdivision (1) of this subsection, be reduced by the fair market value  
40 of any real property or tangible personal property of the deceased  
41 person situated outside of this state.

42 (6) In the case of a deceased person who was not domiciled in this  
43 state on the date of his or her death but who owned real property or  
44 tangible personal property situated in this state on the date of his or  
45 her death, only the fair market value of such real property or tangible  
46 personal property situated in this state shall be included in the basis  
47 for fees pursuant to subdivision (1) of this subsection.

48 [(b)] (c) In the case of a decedent who dies on or after January 1,  
49 2015, and prior to July 1, 2016, fees shall be computed as follows:

50 (1) The basis for fees shall be (A) the greatest of (i) the gross estate  
51 for succession tax purposes, as provided in section 12-349, (ii) the  
52 inventory, including all supplements thereto, (iii) the Connecticut  
53 taxable estate, as defined in section 12-391, or (iv) the gross estate for  
54 estate tax purposes, as provided in chapters 217 and 218, except as  
55 provided in subdivisions (5) and (6) of this subsection, plus (B) all  
56 damages recovered for injuries resulting in death, minus any hospital  
57 and medical expenses for treatment of such injuries resulting in death,  
58 minus any hospital and medical expenses for treatment of such injuries  
59 that are not reimbursable by medical insurance, and minus the  
60 attorney's fees and other costs and expenses of recovering such  
61 damages. Any portion of the basis for fees that is determined by  
62 property passing to the surviving spouse shall be reduced by fifty per  
63 cent. Except as provided in subdivisions (3) and (4) of this subsection,  
64 in no case shall the minimum fee be less than twenty-five dollars.

65 (2) Except as provided in subdivisions (3) and (4) of this subsection,  
 66 fees shall be assessed in accordance with the following table:

T14	Basis for Computation	
T15	Of Fees	Total Fee
T16	0 to \$500	\$25
T17	\$501 to \$1,000	\$50
T18	\$1,000 to \$10,000	\$50, plus 1% of all
T19		in excess of \$1,000
T20	\$10,000 to \$500,000	\$150, plus .35% of all
T21		in excess of \$10,000
T22	\$500,000 to \$2,000,000	\$1,865, plus .25% of all
T23		in excess of \$500,000
T24	\$2,000,000 and over	\$5,615 plus .5% of all
T25		in excess of \$2,000,000

67 (3) Notwithstanding the provisions of subdivision (1) of this  
 68 subsection, if the basis for fees is less than ten thousand dollars and a  
 69 full estate is opened, the minimum fee shall be one hundred fifty  
 70 dollars.

71 (4) In any matter in which the Commissioner of Administrative  
 72 Services is the legal representative of the estate pursuant to section 4a-  
 73 16, the fee shall be the lesser of (A) the amount calculated under  
 74 subdivisions (1) and (2) of this subsection, or (B) the amount collected  
 75 by the Commissioner of Administrative Services after paying the  
 76 expense of funeral and burial in accordance with section 17b-84.

77 (5) In the case of a deceased person who was domiciled in this state  
 78 on the date of his or her death, the gross estate for estate tax purposes  
 79 shall, for the purpose of determining the basis for fees pursuant to  
 80 subdivision (1) of this subsection, be reduced by the fair market value  
 81 of any real property or tangible personal property of the deceased  
 82 person situated outside of this state.

83 (6) In the case of a deceased person who was not domiciled in this

84 state on the date of his or her death but who owned real property or  
 85 tangible personal property situated in this state on the date of his or  
 86 her death, only the fair market value of such real property or tangible  
 87 personal property situated in this state shall be included in the basis  
 88 for fees pursuant to subdivision (1) of this subsection.

89 [(c)] (d) For estates in which proceedings were commenced on or  
 90 after January 1, 2011, for decedents who died before January 1, 2015,  
 91 fees shall be computed as follows:

92 (1) The basis for fees shall be (A) the greatest of (i) the gross estate  
 93 for succession tax purposes, as provided in section 12-349, (ii) the  
 94 inventory, including all supplements thereto, (iii) the Connecticut  
 95 taxable estate, as defined in section 12-391, or (iv) the gross estate for  
 96 estate tax purposes, as provided in chapters 217 and 218, except as  
 97 provided in subdivisions (5) and (6) of this subsection, plus (B) all  
 98 damages recovered for injuries resulting in death, minus any hospital  
 99 and medical expenses for treatment of such injuries resulting in death,  
 100 minus any hospital and medical expenses for treatment of such injuries  
 101 that are not reimbursable by medical insurance, and minus the  
 102 attorney's fees and other costs and expenses of recovering such  
 103 damages. Any portion of the basis for fees that is determined by  
 104 property passing to the surviving spouse shall be reduced by fifty per  
 105 cent. Except as provided in subdivisions (3) and (4) of this subsection,  
 106 in no case shall the minimum fee be less than twenty-five dollars.

107 (2) Except as provided in subdivisions (3) and (4) of this subsection,  
 108 fees shall be assessed in accordance with the following table:

T26	Basis for Computation	
T27	Of Fees	Total Fee
T28	0 to \$500	\$25
T29	\$501 to \$1,000	\$50
T30	\$1,000 to \$10,000	\$50, plus 1% of all
T31		in excess of \$1,000
T32	\$10,000 to \$500,000	\$150, plus .35% of all

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T33		in excess of \$10,000
T34	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T35		in excess of \$500,000
T36	\$4,754,000 and over	\$12,500

109 (3) Notwithstanding the provisions of subdivision (1) of this  
110 subsection, if the basis for fees is less than ten thousand dollars and a  
111 full estate is opened, the minimum fee shall be one hundred fifty  
112 dollars.

113 (4) In any matter in which the Commissioner of Administrative  
114 Services is the legal representative of the estate pursuant to section 4a-  
115 16, the fee shall be the lesser of (A) the amount calculated under  
116 subdivisions (1) and (2) of this subsection, or (B) the amount collected  
117 by the Commissioner of Administrative Services after paying the  
118 expense of funeral and burial in accordance with section 17b-84.

119 (5) In the case of a deceased person who was domiciled in this state  
120 on the date of his or her death, the gross estate for estate tax purposes  
121 shall, for the purpose of determining the basis for fees pursuant to  
122 subdivision (1) of this subsection, be reduced by the fair market value  
123 of any real property or tangible personal property of the deceased  
124 person situated outside of this state.

125 (6) In the case of a deceased person who was not domiciled in this  
126 state on the date of his or her death but who owned real property or  
127 tangible personal property situated in this state on the date of his or  
128 her death, only the fair market value of such real property or tangible  
129 personal property situated in this state shall be included in the basis  
130 for fees pursuant to subdivision (1) of this subsection.

131 [(d)] (e) For estates in which proceedings were commenced on or  
132 after April 1, 1998, and prior to January 1, 2011, fees shall be computed  
133 as follows:

134 (1) The basis for fees shall be (A) the gross estate for succession tax

135 purposes, as provided in section 12-349, the inventory, including all  
 136 supplements thereto, the Connecticut taxable estate, as defined in  
 137 section 12-391, or the gross estate for estate tax purposes, as provided  
 138 in chapters 217 and 218, whichever is greater, plus (B) all damages  
 139 recovered for injuries resulting in death, minus any hospital and  
 140 medical expenses for treatment of such injuries resulting in death,  
 141 minus any hospital and medical expenses for treatment of such injuries  
 142 that are not reimbursable by medical insurance and minus the  
 143 attorney's fees and other costs and expenses of recovering such  
 144 damages. Any portion of the basis for fees that is determined by  
 145 property passing to the surviving spouse shall be reduced by fifty per  
 146 cent. Except as provided in subdivision (3) of this subsection, in no  
 147 case shall the minimum fee be less than twenty-five dollars.

148 (2) Except as provided in subdivisions (3) and (4) of this subsection,  
 149 fees shall be assessed in accordance with the following table:

T37	Basis for Computation	
T38	Of Fees	Total Fee
T39	0 to \$500	\$25
T40	\$501 to \$1,000	\$50
T41	\$1,000 to \$10,000	\$50, plus 1% of all
T42		in excess of \$1,000
T43	\$10,000 to \$500,000	\$150, plus .35% of all
T44		in excess of \$10,000
T45	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T46		in excess of \$500,000
T47	\$4,754,000 and over	\$12,500

150 (3) Notwithstanding the provisions of subdivision (1) of this  
 151 subsection, if the basis for fees is less than ten thousand dollars and a  
 152 full estate is opened, the minimum fee shall be one hundred fifty  
 153 dollars.

154 (4) In estates where the gross taxable estate is less than six hundred

155 thousand dollars, in which no succession tax return is required to be  
156 filed, a probate fee of .1 per cent shall be charged against non-solely-  
157 owned real estate, in addition to any other fees computed under this  
158 section.

159 [(e)] (f) A fee of fifty dollars shall be payable to the court by any  
160 creditor applying to the Probate Court pursuant to section 45a-364 for  
161 consideration of a claim. If such claim is allowed by the court, the court  
162 may order the fiduciary to reimburse the amount of such fee from the  
163 estate.

164 [(f)] (g) A fee of fifty dollars, plus the actual expenses of  
165 rescheduling the adjourned hearing that are payable under section  
166 45a-109, shall be payable to the court by any party who requests an  
167 adjournment of a scheduled hearing or whose failure to appear  
168 necessitates an adjournment, except that the court, for cause shown,  
169 may waive either the fifty-dollar fee or the actual expenses of  
170 rescheduling the adjourned hearing, or both.

171 [(g)] (h) A fee of two hundred fifty dollars shall be payable to the  
172 Probate Court by a petitioner filing a motion to permit an attorney  
173 who has not been admitted as an attorney under the provisions of  
174 section 51-80 to appear pro hac vice in a matter in the Probate Court.

175 [(h)] (i) A fee of fifty dollars shall be payable to the Probate Court by  
176 a petitioner filing a petition to open a safe deposit box under section  
177 45a-277 or 45a-284.

178 [(i)] (j) A fee of fifty dollars shall be payable to the Probate Court by  
179 a petitioner filing a petition for appointment of an estate examiner  
180 under section 45a-317a.

181 [(j)] (k) The fee for mediation conducted by a member of the panel  
182 established by the Probate Court Administrator is three hundred fifty  
183 dollars per day or part thereof.

184 [(k)] (l) Except as provided in subsections [(e) to (j)] (f) to (k),  
185 inclusive, of this section, in no event shall any fee exceed ten thousand



186 dollars for any estate in which proceedings were commenced prior to  
187 April 1, 1998, and twelve thousand five hundred dollars for any estate  
188 in which proceedings were commenced on or after April 1, 1998, for  
189 decedents dying before January 1, 2015.

190 [(l)] (m) In the case of decedents who die on or after January 1, 2011:

191 (1) Any fees assessed under this section that are not paid within  
192 thirty days of the date of an invoice from the Probate Court shall bear  
193 interest at the rate of one-half of one per cent per month or portion  
194 thereof until paid;

195 (2) If a tax return or a copy of a tax return required under  
196 subparagraph (D) of subdivision (3) of subsection (b) of section 12-392  
197 is not filed with a Probate Court by the due date for such return or  
198 copy under subdivision (1) of subsection (b) of section 12-392 or by the  
199 date an extension under subdivision (4) of subsection (b) of section 12-  
200 392 expires, the fees that would have been due under this section if  
201 such return or copy had been filed by such due date or expiration date  
202 shall bear interest at the rate of one-half of one per cent per month or  
203 portion thereof from the date that is thirty days after such due date or  
204 expiration date, whichever is later, until paid. If a return or copy is  
205 filed with a Probate Court on or before such due date or expiration  
206 date, whichever is later, the fees assessed shall bear interest as  
207 provided in subdivision (1) of this subsection;

208 (3) A Probate Court may extend the time for payment of any fees  
209 under this section, including interest, if it appears to the court that  
210 requiring payment by such due date or expiration date would cause  
211 undue hardship. No additional interest shall accrue during the period  
212 of such extension. A Probate Court may not waive interest outside of  
213 any extension period;

214 (4) The interest requirements in subdivisions (1) and (2) of this  
215 subsection shall not apply if:

216 (A) The basis for fees for the estate does not exceed forty thousand

217 dollars; or

218 (B) The basis for fees for the estate does not exceed five hundred  
 219 thousand dollars and any portion of the property included in the basis  
 220 for fees passes to a surviving spouse.

221 Sec. 2. Subsection (a) of section 45a-107b of the 2016 supplement to  
 222 the general statutes is repealed and the following is substituted in lieu  
 223 thereof (*Effective from passage*):

224 (a) The fees imposed under subsections (b) [, (c) and (d)] to (e),  
 225 inclusive, of section 45a-107, as amended by this act, shall be a lien in  
 226 favor of the state of Connecticut upon any real property located in this  
 227 state that is included in the basis for fees of the estate of a deceased  
 228 person, from the due date until paid, with interest that may accrue in  
 229 addition thereto, except that such lien shall not be valid as against any  
 230 lienor, mortgagee, judgment creditor or bona fide purchaser until  
 231 notice of such lien is filed or recorded in the town clerk's office or place  
 232 where mortgages, liens and conveyances of such property are required  
 233 by statute to be filed or recorded.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	45a-107
Sec. 2	<i>from passage</i>	45a-107b(a)

**FIN**            *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Probate Court	PCAF - Revenue Loss	4.5 million	4.5 million

Note: PCAF=Probate Court Administration Fund

**Municipal Impact:** None**Explanation**

The bill results in a revenue loss of approximately \$4.5 million annually to the Probate Court Administration Fund by placing a cap of \$40,000 on fees paid by decedent's estates for probate court fees. Currently there is no cap for the fee.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future.

Sources: FY 15 Estate Data

**OLR Bill Analysis****SB 13*****AN ACT REDUCING CERTAIN PROBATE COURT FEES.*****SUMMARY:**

This bill caps at \$40,000 the probate fees for settling estates valued at \$8.877 million and greater, as shown in Table 1. The fee changes apply to estate proceedings for people who die on or after July 1, 2016. The bill also makes a conforming change.

**Table 1: Probate Fees for Settling Estates (Ranges Changed by the Bill)**

<i>Current Law</i>		<i>Bill</i>	
<i>Estate Value</i>	<i>Fee</i>	<i>Estate Value</i>	<i>Fee</i>
At least \$2 million	\$5,615, plus 0.5% of the excess over \$2 mil.	\$2 million to \$8.877 million	\$5,615, plus 0.5% of the excess over \$2 mil.
		At least \$8.877 million	\$40,000

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Related Bill***

sHB 5046, favorably reported by the Finance, Revenue and Bonding Committee, contains identical provisions.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 50 Nay 0 (03/31/2016)